Prevention of Harassment of Women

2071. DR. DASARI NARAYANA RAO: Will the PRIME MINISTER be pleased to state:

(a) the salient features of the guidelines laid down by the Supreme Court in the case of Visakha and others Vs. the State of Rajasthan for prevention of sexual harassment of women at work place;

(b) whether these have been included in the conduct rules of Government employees; and

(c) if not, the reasons therefor?

THE MINISTER OF STATE IN THE DEPARTMENT OF PERSONNEL AND TRAINING OF THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (SHRIMATI VASUNDHARA RAJE): (a) A Statement is annexed (*See below*).

(b) the Central Civil Services (Conduct) Rules, 1964 have been amended inserting a new rule relating to prohibition of sexual harassment of working women.

(c) Does not arise.

Statement

Salient features of the guidelines laid down by the Supreme Court in the case of Visakha and others Vs. the State of Rajasthan for prevention of sexual harassment of women at work place.

In the case of Visakha and others Vs. State of Rajasthan and others (JT 1997(7) SC 384) the Supreme Court has laid down as follows:—

HAVING REGARD to the definition of 'human rights' in Section 2(d) of the Protection of Human Rights Act, 1993, TAKING NOTE of the fact that the present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in work places and that enactment of such legislation will take considerable time.

It is necessary and expedient for employers in work places as

well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women.

1. Duty of the Employer or other responsible persons in work places and other institutions:

It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

2. Definition:

For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

(a) Physical contact and advances;
(b) a demand or request for sexual favours;
(c) sexual coloured remarks;
(d) showing pornography;
(e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Where any of these acts is committed in circumstances where-under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

3. Preventive Steps:

All employers or persons in charge of work place whether in public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps:

(a) Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.

(b) The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/ regulations prohibting sexual harassment and provide for appropriate penalties in such rules against the offender.

(c) As regards private employers steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.

(d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

4. Criminal proceedings:

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims, or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

5. Disciplinary Action:

Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

6. Complaint Mechanism:

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by victim. Such complaint mechanism should ensure time bound treatment of complaints.

7. Complaints Committee:

The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counselor or other support service, including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its member should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them.

The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government department.

8. Worker's Initiative:

Employees should be allowed to raise issues of sexual harassment at workers' meeting and in other appropriate forum and it should be affirmatively discussed in Employer-Employee Meetings.

9. Awareness:

Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

10. Third Party Harassment:

Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

11. The Central/State Governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in Private Sector.

12. These guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993.

Closing of CBI Cases being out of its Jurisdiction

2072. SHRI RAJNATH SINGH SURYA: Will the PRIME MINISTER be pleased to state:

(a) whether the CBI closes cases on the ground of these being outside its jurisdiction;

(b) if so, how many such cases were closed during the past three years; and

(c) whether it is not possible to ween out such cases in the beginning itself?

THE MINISTER OF STATE IN THE DEPARTMENT OF PERSONNEL AND TRAINING OF THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (SHRIMATI VASUNDHARA RAJE): (a) to (c) Cases are registered by the CBI in accordance with the provisions of the Criminal procedure Code 1973, Prevention of Corruption Act, 1988, Delhi Special Police Establishment Act, 1946 and other relevant laws in force, after carefully examining the facts and the legal provisions. It is ensured by the CBI that only those cases are registered and taken up for investigation which come within the purview of CBI. However, if any such case, which does not come within the purview of CBI, is registered inadvertently, the same is closed when the facts come to light. Only one case has been closed by CBI during the last three years on the ground of its being outside its jurisdiction.